

Whiting Forensic Hospital Patient Abuse Investigations

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Issue

This report briefly describes the mission of Whiting Forensic Hospital and the status of the (1) Department of Mental Health and Addiction Services' recent investigations of patient abuse at the hospital and (2) hospital's Medicare certification. It updates OLR Report [2017-R-0311](#).

Whiting Forensic Hospital

Mission

Whiting Forensic Hospital generally cares for patients with psychiatric disabilities, some of whom have been convicted of serious offenses or were found incompetent to stand trial, under maximum security conditions. (For more information about the hospital's admission standards and administration, see OLR Report [2017-R-0218](#)).

Organizational Status

Until recently, Whiting Forensic was a division of Connecticut Valley Hospital (CVH), but the governor recently signed an executive order separating the division from CVH and renaming it Whiting Forensic Hospital. The order, which took effect December 31, 2017, made Whiting Forensic Hospital part of an independent division of the Department of Mental Health and Addiction Services (DMHAS) with an independent governing body and policies and procedures specific to the hospital (Executive Order [No. 63](#)).

Unlike other hospitals, which are licensed and regulated by the Department of Public Health (DPH), state psychiatric hospitals are not licensed and instead are under the administrative control and supervision of DMHAS.

This legislative session, the General Assembly is considering related legislation, including subjecting Whiting Forensic Hospital to DPH licensure and inspection requirements and instituting staff training requirements.

Patient Abuse Investigations

In September 2017, 10 staff members were arrested following a State Police investigation of the ongoing abuse of a 62-year old Whiting Forensic Hospital patient. According to DMHAS, the department's human resources department is currently investigating the matter. They have completed 120 staff interviews and are currently determining the appropriate disciplinary action to take based on the results of these interviews. To date, 38 employees have been placed on paid administrative leave in accordance with state law and state employee union contracts. Of these 38 employees, four have resigned and 27 were terminated for failing to comply with the conditions of the paid administrative leave. Additionally, DPH is investigating these employees' professional licenses, and two registered nurses entered into interim consent orders under which their licenses are suspended during the investigation.

Additionally, in December 2017, DMHAS placed five more staff members on paid administrative leave following a State Police investigation of a separate allegation of patient abuse at the hospital that was captured on surveillance video. According to DMHAS, the department's human resources department will begin interviewing staff by the end of February.

Medicare Certification

During the same time period as the initial patient abuse investigation, Whiting Forensic Hospital (then a division of CVH) voluntarily rescinded its certification as a Medicare provider (i.e., "de-certification"). Under federal law and regulation, hospitals must obtain certification from the federal Centers for Medicare and Medicaid Services (CMS) in order to participate in Medicare and Medicaid. To obtain certification, hospitals must meet certain health and safety standards ("Conditions of Participation") that cover a range of topics, such as the hospital's governing body; patient rights; quality assessment; medical staff; nursing services; pharmaceutical, radiologic, and laboratory services; infection control; and discharge planning.

While DPH does not directly regulate CVH, it contracts with CMS to conduct investigatory surveys (i.e., inspections) of Medicare-certified entities, including CVH. Based on DPH's surveys, CMS produced a comprehensive report in October 2017. Following DPH's July 12th survey, Whiting Forensic Hospital voluntarily de-certified its 91 patient beds retroactive to April 1, 2017, making them ineligible for Medicare reimbursement. It did so because the division did not meet the CMS Conditions of Participation for discharge planning.

Additionally, the remainder of CVH was at risk of losing its CMS certification due to inspection findings and patient safety issues. But CMS subsequently announced that CVH would retain its certification following DMHAS' submission of a corrective action plan to address these issues.

Legislative Informational Forum and Public Hearing

In November 2017, the Public Health Committee held an informational forum and public hearing on Whiting Forensic Hospital. Representatives of DMHAS, DPH, and the Psychiatric Security Review Board (PSRB) testified at the forum. DMHAS provided information on its current patient abuse investigation, as well as actions taken to address the issue and prevent future occurrences. DPH provided information regarding hospital regulation in the state and its role as a CMS surveyor for Medicare-certified health care facilities. Finally, the PSRB provided information on its role in overseeing the care and treatment of certain Whiting Forensic Hospital patients who were found not guilty of a crime by reason of a mental disease or defect (i.e., "acquittees"). Submitted testimony is available at: <https://www.cga.ct.gov/ph/>.

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